

**APPROVED**

**PLANNING BOARD  
PLANNING BOARD MONTHLY MEETING  
2<sup>ND</sup> PUBLIC HEARING ON PROPOSED ZONING AMENDMENTS**

**Wednesday, January 26, 2022 – 6:00 PM  
Lincoln Town Hall, 148 Main Street, Lincoln NH**

**\*Due to the current evolving status of COVID-19, this meeting will be a *hybrid* meeting to be presented both in person with social distancing encouraged (space limited to 8-12) and via ZOOM Video Conferencing to allow for town wide participation. A quorum of the members of the board will have to be physically present at the meeting. All others are encouraged to attend via ZOOM.**

**Join Meeting via ZOOM:**

**<https://us02web.ZOOM.us/j/85256174916?pwd=L3hocFJGYVBXZlFQdkhPR29sMVIDQT09>**

**Meeting ID: 852 5617 4916**

**Passcode: 676103**

**Or dial by your location 1-929-205-6099 US (New York)**

**(See also town website [www.lincolnnh.org](http://www.lincolnnh.org) for the same link, meeting ID and passcode.)**

**I. CALL TO ORDER** by the Chairman of Planning Board

**Members Present:** Chairman James Spanos, Vice Chairman Joe Chenard, Selectmen's Representative Jack Daly, Member Stephen Noseworthy, Member Paul Beaudin,

**Excused:** Selectmen's Representative O.J. Robinson, Alternate Mark Ehrman

**Staff Present:** Fire Chief and Code Enforcement Office/Health Officer/ZOOM Host and Moderator Ronald Beard, Planner Carole Bont, & Planning Board Recorder Judy Sherrieff (via ZOOM).

**Consultants:** Town Engineer Raymond Korber, KVPartners, LLC (via ZOOM).

**Guests:**

- **Stuart Anderson**, nonresident, employed by Alba Architects, LLP, 137 Main Street, North Woodstock, NH 03262.
- **David Beaudin**, nonresident, Lincoln Water Plant Operator with an address of North Woodstock, NH 03262. (via ZOOM).
- **Taylor C. Beaudin**, nonresident, Route 175 Woodstock, NH 03262, contractor who works for Lincoln Trucking and Excavating LLC, 177 Connector Road, Lincoln, NH 03785.
- **Mark Bogosian** nonresident, Longfellow Design Build and South Peak Resort, 367 Main Street, Falmouth, MA 02540 a developer who owns the following:
  - [d/b/a Loon Slopeside, LLC, owns 9 Riverside Terrace #2C, (Map 118, Lot 039001-02-0000C)]

- South Peak Road (Map 121, Lot 057)
- 43 Crooked Mountain Road (Map 121, Lot 011)
- All properties formerly owned by “FC-Loon, LLC”) and not already sold:
  - Crooked Mountain Road #100 (Map 118, Lot 018)
  - Crooked Mountain Road #101 (Map 118, Lot 019)
  - Crooked Mountain Road #102 (Map 118, Lot 020)
  - Crooked Mountain Road #103 (Map 118, Lot 021)
  - Crooked Mountain Road #104 (Map 118, Lot 022)
  - Crooked Mountain Road #105 (Map 118, Lot 023)
  - Crooked Mountain Road #106 (Map 120, Lot 001)
  - Crooked Mountain Road #107 (Map 120, Lot 002)
  - Crooked Mountain Road #108 (Map 120, Lot 003)
  - Crooked Mountain Road #109 (Map 120, Lot 004)
  - Crooked Mountain Road #110 (Map 120, Lot 005)
  - Crooked Mountain Road #111 (Map 120, Lot 006)
  - Crooked Mountain Road #112 (Map 120, Lot 007)
  - Crooked Mountain Road #113 (Map 121, Lot 049)
  - Crooked Mountain Road #114 (Map 121, Lot 051)
  - Crooked Mountain Road #115 (Map 120, Lot 022)
  - Crooked Mountain Road #116 (Map 120, Lot 021)
  - Crooked Mountain Road #117 (Map 120, Lot 023)
  - Crooked Mountain Road #118 (Map 120, Lot 024)
  - Crooked Mountain Road #119 (Map 120, Lot 025)
- All properties currently owned by South Peak, LLC, 367 Main Street, Falmouth, MA 02540
  - South Peak Road (Map 118, Lot 039) (95.71 Acres)
  - Parcel 2 #LO (Map 118, Lot 040) (93.93 Acres)
  - Parcel 1 #LO (Map 119, Lot 003) (32.1 Acres)
  - Crooked Mountain Road #LO (Map 121, Lot 050) (0.56 Acres – site of Pemi Base Camp)
  - LO SS East Branch River (Map 119, Lot 004) (53 Acres)
  - South Peak L/O (Map 124, Lot 066) (28.28 Acres)
- **Susanne (Susan) A. Chenard**, resident of 11 Liberty Road, Lincoln NH 03251 (Map 107, Lot 061) and Realtor for Loon Reservation Service, 264 Main Street, Suite 12, PO Box 785, Lincoln, NH 03251-0785, and owner of 19 Maple Street (Map 118, Lot 069). Alternate member of the Zoning Board of Adjustment.
- **Andrew Erikson (via ZOOM)**, nonresident, Construction Superintendent/ Estimator for Cobb Hill Construction, Inc., 206 North State Street, Concord, NH 03301.
- **Jon Warzocha, P.E.** Horizons Engineering, CEO of Horizons Engineering, Inc., 34 School Street, Littleton, NH 03561 working for Mark Bogosian.

**II. CONSIDERATION of meeting minutes from:**

• **January 5, 2022**

- Chair James Spanos, Vice Chairman Joe Chenard, Selectmen's Representative Jack Daly (filling in for Selectmen's Representative OJ Robinson), Member Stephen Noseworthy, and Member Paul Beaudin

**Motion to approve as presented. Member Beaudin**

**Second. Vice Chairman Chenard**

**Four out of five in favor with one abstention by Jack Daly.**

**III. CONTINUING AND OTHER BUSINESS (Staff and Planning Board**

**Member/Alternates).**

- A. Planning Board will hold a second public hearings in the Large Conference Room\* at Lincoln Town Office, 148 Main St., Lincoln, NH. 1<sup>st</sup> Public Hearing was held: Wed., January 5, 2022 at 6:00 PM & a 2<sup>nd</sup> Public Hearing, if required: Wed., January 26, 2022, on the following proposed zoning amendments:

**Proposed Amendments to Land Use Plan Ordinance (LUPO):**

**A. LUPO, Article III APPLICABILITY AND NON-CONFORMING USES**

**Section C. NON-CONFORMING USES.** Change the Board having jurisdiction to determine whether or not to permit an expansion of a nonconforming use from Board of Selectmen to Zoning Board of Adjustment.

**Motion to open to the public. Member Beaudin**

**Second Vice Chairman Chenard**

**All in favor.**

**Motion to close public hearing. Selectmen's Representative Jack Daly**

**Second Member Beaudin**

**All in favor.**

**Motion to approve and send to Town Warrant: A Non-Conforming use may not be expanded except upon a finding by Zoning Board of Adjustment substituted for Board of Selectmen or their designee that (A) the expansion reflects the nature and purpose of the existing non-conforming use so it's not to constitute a different use and the expansion will not have a detrimental impact to the neighborhood in which the use is located. Member Beaudin**

**Second. Vice Chairman Chenard**

**All in favor.**

- B. LUPO, Article IV DEFINITIONS.** Add the following definitions to the Land Use Ordinance: Campground or Camping Park, Disturbance, Manufactured Housing, and Manufactured Housing Parks including a reference to the applicable RSAs and repeating the language from the RSA.

## **Discussion**

Chairman Spanos read from an email letter from the Town Attorney Peter Malia in which he suggested the Planning Board choose one or the other – either the statutory reference as the definition without with language from the statute, or remove the statutory reference and just use the written definition currently in the state statute. Using both can be a cause for confusion.

The Board discussed their opinions of the pros and cons for referencing the statute number as well as the language in the statute as a definition vs. just referencing the statute – pick one or the other. After some debate, the Planning Board agreed that it was best to only reference the RSA. Chairman Spanos read the proposal.

**Campgrounds or Camping Park shall have the same meaning as set forth in RSA 216-I (Recreational Campgrounds and Camping Parks).**

**Motion to open public comment. Vice Chairman Chenard  
Second. Member Beaudin  
All in favor.**

**Motion to close public comment. Vice Chairman Chenard  
Second. Member Beaudin  
All in favor.**

**Motion to send to Town Warrant Campgrounds or Camping Park shall have the same meaning as set forth in RSA 216-I (Recreational Campgrounds and Camping Parks). Vice Chairman Chenard  
Second. Selectmen's Representative Daly  
All in favor.**

**Manufactured Housing Shall have the same meaning as set forth in RSA 205-A:1 (Definitions).**

**Motion to open public comment. Member Beaudin  
Second. Selectmen's Representative Daly  
All in favor.**

**Motion to close public comment. Selectmen's Representative Daly  
Second. Vice Chairman Chenard  
All in favor.**

**Motion to send to Town Warrant Manufactured Housing Shall have the same meaning as set forth in RSA 205-A:1 (Definitions). Vice Chairman Chenard**

**Second. Selectmen's Representative Daly**  
**All in favor.**

**Manufactured Housing Parks Shall have the same meaning as set forth in RSA 205-A:1 (Definitions).**

**Motion to open public comment. Member Beaudin**  
**Second. Vice Chairman Chenard**  
**All in favor.**

**Motion to close public comment. Vice Chairman Chenard**  
**Second. Selectmen's Representative Daly**  
**All in favor.**

**Motion to send to Town Warrant Manufactured Housing Parks Shall have the same meaning as set forth in RSA 205-A:1 (Definitions). Vice Chairman Chenard**  
**Second. Selectmen's Representative Daly**  
**All in favor.**

**Disturbance – Means filling, grading, dredging, mining, excavation, construction, removal of topsoil, removal of stumps, stockpiling of earth material or any other activity that results in a temporary or permanent change to the preexisting ground conditions or contours, or both.**

**Motion to open public comment. Vice Chairman Chenard**  
**Second. Selectmen's Representative Daly**  
**All in favor.**

**Motion to close public comment. Member Beaudin**  
**Second. Vice Chairman Chenard**  
**All in favor.**

**Motion to send the Definition of Disturbance to Town Warrant as written. Member Beaudin**  
**Second. Selectmen's Representative Daly**  
**All in favor.**

**C. LUPO, Article VI DISTRICT AND DISTRICT REGULATIONS.**

**Manufactured Housing:** Currently, Manufactured Housing is treated as a single-family residence under “Residential Uses” and is allowed in only 3 of the 7 zoning districts: General Use (GU) District, General Residential (GR) District and Rural Residential (RR) District. The proposed amendment would allow Manufactured Housing in 5 of the 7 zoning districts. The proposal is to allow them in the Village Center (VC) District and the Village Residential (VR) District as well.

**Motion to open public comment. Vice Chairman Chenard**

**Second. Selectmen’s Representative Daly**

**All in favor.**

**Motion to close public comment. Vice Chairman Chenard**

**Second. Selectmen’s Representative Daly**

**All in favor.**

**Motion to allow Manufactured Housing in the Village Center (VC) District and the Village Residential (VR) District and send to Town Warrant. Vice Chairman Chenard**

**Second. Selectmen’s Representative Daly**

**All in favor.**

**D. Manufactured Housing Parks:** Currently Manufactured Housing Parks is not defined or listed as a permitted use in any zone in the LUPO. Propose to treat Manufactured Housing Parks as a “Business Use” and allow Manufactured Housing Parks in 4 of the 7 zoning Districts. The proposed amendment would allow Manufactured Housing Parks in the General Use (GU) District, Village Residential (VR) District, General Residential (GR) District and Rural Residential (RR) District.

**Motion to open public comment. Member Beaudin**

**Second. Vice Chairman Chenard**

**All in favor.**

**Public Comment.**

Stuart Anderson from Alba Architects, LLP, asked if the manufactured housing park is subject to the same density calculations as other residential properties.

Chairman Spanos clarified that with this change a manufactured housing park is considered a “business use” and the density will be based on lot coverage as opposed to the minimum lot size requirement.

**Motion to close public comment. Member Beaudin**

**Second. Selectmen’s Vice Chairman Chenard**

**All in favor.**

**Motion to send to the Town Warrant as presented. Vice Chairman Chenard  
Second. Selectmen's Representative Daly  
All in favor.**

**Proposed Amendments to Stormwater Management Ordinance (SMO):**

**A. SMO, Article III APPLICABILITY.**

The requirements of this ordinance shall apply to:

- B. All developments (as defined in Article IV.A of the Town's Site Plan Review Regulations and also in Article IV of the Town's Land Use Plan Ordinance) and residential lots which disturb either:
- a. Changed from ~~15,000 Square Feet~~ to 17,000 Square Feet.
  - b. Changes from 50% to 55% or more of the square footage of the lot (even if less than ~~15,000~~ 17,000 total square feet.)

**Discussion**

Town Engineer Ray Korber was asked by Chairman Spanos to comment on the proposed changes. Town Engineer Korber stated that changing the thresholds up from fifteen thousand (15,000) square feet to seventeen thousand (17,000) square feet and the percentages from fifty (50) percent to fifty-five (55) percent will obviously generate more stormwater runoff. Thereby, the SMO will become less stringent than it currently is.

Town Engineer Ray Korber stated that he does not know what the Planning Board's motivations behind moving the thresholds are, but understands the Planning Board is trying to make the SMO less stringent to assist people to get through the Land Use Permit process quicker.

Town Engineer Ray Korber added that the Stormwater Management Ordinance thresholds are not delaying the Land Use Permit process. He does not view the Planning Board's proposal to change the thresholds as based on a solid science-based rationale.

Member Beaudin responded that changing the thresholds would allow the applicants to avoid having to go through the SMO process and will make it quicker to obtain a Land Use Permit.

Member Beaudin went on to say that the increase in the threshold limit was not very much. Based on the State's "Model Stormwater Management Ordinance", in the model the stated threshold limit was twenty thousand (20,000) square feet.

Member Beaudin said he recalled some of the comments from members of the public that were made at previous meetings. At those meetings members of the public mentioned that trenches for culverts, water/sewer, and utilities were causing applicants to go over the threshold limits triggering the SMO. He feels the proposed changes are "minimal" and will not cause any increase in runoff that the Town would not be able to deal with.

Selectmen's Representative Daly asked Planner Bont if any requests for Land Use Permits have been denied because of the mitigation at fifteen thousand (15,000) square feet. To which she replied "no".

Planner Bont explained that the difficulty for the professionals (architects, contractors and subcontractors) is that the property owners who want to develop their lots want all of their major amenities on one floor and are looking to cover the entire lot with the first floor so the first floor will include as many of those amenities as possible (i.e., libraries, gyms, offices, game rooms, etc.).

Planner Bont said she has recently tried to encourage architects/contractors/builders to work with their clients to build more vertically which disturbs much less land area.

Member Beaudin added that in his opinion, the reason for the increase is that the area of disturbance to build the home may be at the fifteen thousand (15,000) square foot mark, but then when utilities are added in, the area of disturbance to build the home is then over the threshold and triggers the SMO. If an applicant does go over the proposed seventeen thousand (17,000) square foot threshold they still have the option of applying for a waiver.

Planner Bont asked Member Beaudin if the applicant can come in for a waiver at seventeen thousand (17,000) square feet then they can do the same at fifteen thousand (15,000) square feet. What criteria for granting the waiver will be used by the Planning Board?

Member Beaudin replied that the process for the Planning Board responding to a request for a Waiver of the Stormwater Management Ordinance will require more time and cause an additional delay in getting a Land Use Permit. Giving the applicant an additional two thousand (2,000) square feet to put in utilities, will not trigger the SMO and the Land Use Permit process will be quicker. He feels this proposed change will give the applicants more options.

Selectmen's Representative Daly said he wanted to hear what the builders who were present had to say.

**Motion to open public comment. Member Beaudin**

**Second. Vice Chairman Chenard**

**All in favor.**

### **Public Comments**

**Stuart Anderson** from Alba Architects, LLP said he had items he wanted to address:

**1. How Is the "Area of Disturbance" Calculated? Does the "Area of Disturbance" Include Disturbed Land in the Common Areas that Are Outside of the Lot?**

**Stuart Anderson from Alba Architects, LLP** mentioned that in the SMO there are references to the "lot" which is defined as the area of lot which includes areas inside the property boundary only and exclusive of common areas outside of the property.

**Stuart Anderson from Alba Architects, LLP** said inevitably in every project there is disturbance that happens beyond the lot line and the roadway for trenching for utilities or driveways. He thinks it would be helpful to professional like him for that calculation or



method of calculation to be adopted directly within the SMO and not just within a current practice of how it is calculated.

**2. Is The Current Method of Calculating the Area of Disturbance Too Subjective If Language Is Not In SMO?**

**Stuart Anderson from Alba Architects, LLP** thinks that the current practice method is too subjective. He would like the method of calculating the Area of Disturbance to be within the SMO and the SMO to describe how the area of disturbance is actually calculated.

**Stuart Anderson from Alba Architects, LLP** would like to see the SMO to include actual language that specifically states that the calculation of the “Area of Disturbance” is exclusive of areas outside of the lot itself.

**3. The Area of Disturbance is Greater Because Developers Have to Comply With the SMO.**

**Stuart Anderson from Alba Architects, LLP** said that sometimes they are “buffering the threshold” of fifteen thousand (15,000) or seventeen thousand (17,000) square feet and in order to put in a stormwater plan they can actually create a greater disturbance because they need to cut down more trees. **Stuart Anderson from Alba Architects, LLP** said he feels that cutting down additional trees is counterintuitive when trying to keep natural vegetation. He proceeded to explain this in greater detail.

**Increasing the Threshold Triggers in SMO**

Member Beaudin replied that he thinks that the Planning Board’s proposal to increase the threshold would be helpful in that respect.

**Stuart Anderson from Alba Architects, LLP** responded that if he were to have a Stormwater Management Plan then, in theory, he would be okay as long as the pre and post drainage analysis conformed to the 20-year calculation.

**Developer Mark Bogosian** added that he views the proposed increase to the threshold amounts as important because it would incentivize people to not put in the large stormwater management system. Once property owners are over the threshold, they figure they are already over the threshold so what does it matter and they build much larger homes as a result. He would prefer incentivizing property owners to stay below the threshold and not cut down trees to open up the lot which is not what he would like to see.

### **Does the South Peak Resort Community Association Limit Tree Cutting on Their Lots?**

Member Beaudin asked if South Peak Resort Community Association had any limits on how many trees can be cut on a lot.

**Developer Mark Bogosian** responded that the property owners in South Peak Resort are getting waivers to open up their lots but “they” are trying to push the clients to make smaller homes by going vertical, etc. (Who is “they”? Mark Bogosian the developer? The South Peak Community Association? The South Peak Resort Architectural Review Board?)

### **Do the Developers Like the Proposed Changes?**

**Developer Mark Bogosian’s Engineer Jon Warzocha from Horizons Engineering** summed up, in his opinion the Town’s relaxing the threshold trigger is “striking a good balance”.

Member Beaudin explained how the Planning Board came to the proposed increase of the threshold amount from fifteen thousand square feet (15,000 SF) to seventeen thousand square feet (17,000 SF) vs. adding language defining “permanent disturbance” and “temporary disturbance” as it was too convoluted.

Member Beaudin said if a property owner wanted to put in a Stormwater Management System and cut the trees according to the Town Ordinances the property owner would be allowed to do so; it would be up to the Homeowners Association’s Rules and Regulations for the development to stop property owners from taking down all of the trees.

The builders/developers present:

- (1) Stuart Anderson of Alba Architects, LLP;
- (2) Taylor Beaudin of Lincoln Trucking and Excavating LLC;
- (3) Mark Bogosian of Longfellow Design Build and South Peak Resort; and
- (4) Andrew Erikson for Cobb Hill Construction, Inc.;

all agreed that increasing the threshold was a good thing for them and their clients. They will educate their clients and alert them to the proposed changes.

The builders/developers present also liked the fact that this change in the threshold amounts would make the permitting process a bit easier for them as it removed a step in the process. As long as their development meets the intended consequences of the ordinance and is a benefit to the Town and their clients by keeping down the cost for their clients and making the permit process more predictable.

### **Do the Town Ordinances Conflict with the South Peak Resort Community Association's Rules & Regulations?**

Selectmen's Representative Daly asked the builders/developers present if there were rules and regulations through the South Peak Resort Community Association that were contradictory to what the Planning Board was proposing.

The response from the builders/developers present was that the proposed change in the threshold limits will help them on different projects that are just on the cusp of needing a Stormwater Management Plan.

### **Can Builders/Developers Get Waivers of the SMO for Small Flat Lots in Middle of Town?**

**Stuart Anderson of Alba Architects LLP's** third comment is that there should be some consideration given for a small flat lot in the middle of Town.

Chairman Spanos explained that there is a waiver provision in the Stormwater Management Ordinance and the Town Engineer will review each case.

**Stuart Anderson of Alba Architects LLP** wondered there was a defined criteria or benchmarks for applying for a waiver.

Chairman Spanos responded that there are no defined criteria as the Planning Board does not want to discourage anyone from applying for a waiver if they believe they need one.

### **Thank You**

Contractor Taylor Beaudin thanked the Planning Board for seriously considering the concerns and the issues that he brought to them and feels the Planning Board is "working in a forward direction".

Mark Bogosian states that it is his intention to stay in Lincoln and wants the best possible community at South Peak Resort.

Selectmen's Representative Daly added that he feels Mark Bogosian is committed to that end because he has produced a \$1,800,000 bond for the water tank which is an indication that he is committed.

**If Proposed Amendment is Recommended, It Does Not Go into Effect Until and if It is Adopted at Town Meeting.**

Code Enforcement Officer Beard reminds everyone that if the Planning Board chooses to recommend this proposed change, the change will not go into effect immediately and people should not start designing to the seventeen thousand (17,000) square foot threshold until the proposed change is voted on at the Town Meeting on March 8, 2022.

**Definition of “Area of Disturbance”. Should the calculation of the Area of Disturbance Only Include Disturbed Area Within the Lot Itself?**

Planner Bont addressed the issue brought up earlier by Stuart Anderson of Alba Architects, LLP, regarding when a project has an area of disturbance both within the lot and outside of the lot in the common areas. She mentions that many times the disturbances outside of the lot are connected to common areas. Sometimes the areas of disturbance outside the lot are on another development’s land. For example, in the case of the roadways that are owned by “The Landing at Loon”, the roadways reach down into the Beechwood I and Beechwood II developments. Those roadways whose underlying property is owned by “The Landing at Loon”, provide access for the developments called Beechwood I and Beechwood II. The development of any of those lots in Beechwood I or Beechwood II that disturbs areas outside of the lot would be disturbing land in roadways that are owned by an entirely different development (i.e., “the Landing at Loon”). The roadways owned by The Landing at Loon are similar to tentacles of a jellyfish that reach out into the common areas of other developments. Would the Planning Board propose to ignore areas of disturbance that affect common lands? Would the Planning Board propose to ignore areas of disturbance that affect lands of another?

**Stuart Anderson of Alba Architects LLP** said he is interested in more clear direction when it comes to disturbing land outside of the lot line.

The Planning Board discussed this issue and come to an informal consensus that land outside of the lot line should be exclude from the calculation of area of disturbance.

Chairman Spanos reminded the Planning Board that this is an issue for discussion at a future meeting. This was not an issue that could be addressed for this upcoming Town Meeting as it was not properly noticed or part of the posted proposed amendments.

**Stuart Anderson of Alba Architects LLP** clarifies that it would be helpful to address the issue at a future meeting because in the ordinance it talks about “current practice” which can change over time. The Planning Board agreed whether or not to include areas of disturbance outside of the house lot should be discussed and will put it on the next agenda.

Chairman Spanos said that because this proposed change would be considered “substantial” the Planning Board would not be able to add that language during this meeting. The Planning Board continues discussion on this issue.

**Input From the Town Engineer:**

The Planning Board finally asked Town Engineer Ray Korber for his input.

**Town Engineer Korber** explained that a disturbance is a disturbance as it relates to stormwater run-off, erosion and sedimentation. Whether someone owns that particular portion of the area of disturbance or not, the technical fact is there are potentially detrimental effects that could result from that disturbance.

**Town Engineer Korber** added that this subject was discussed with Town Attorney Peter Malia whether the areas outside of the lot lines, that were disturbed as a result of the development, should be considered under the SMO and the answer from Mr. Malia was “yes, it should”.

**Town Engineer Korber** explained that if someone is building on their property and for some reason needs to disturb an adjoining property related to their development, from a stormwater management standpoint, that disturbed land should be included because it is a disturbed area.

**Developer’s Engineer Jon Warzocha, P.E.** Horizons Engineering, CEO of Horizons Engineering, Inc. said that the State of New Hampshire has different rules for different situations and the State allows for a “temporary disturbance” to tie into the utilities.

The Planning Board members voiced their opinion that developers and property owners should not be penalized for having to disturb areas outside of their own lots to tie into utilities that are located outside of their property boundary lines. The Planning Board members spoke about how minimal the disturbance would be because there was already a roadway where the utilities were being accessed.

**Town Engineer Korber** responded that there have been cases where trees needed to be cut down in order to put in utilities. He takes exception to the comment about the changing condition in terms of the ground treatment. The fact is, if you take a wooded lot and turn that wooded lot into a lawn, you are going to have more stormwater runoff.

Member Beaudin wanted to know whether Mr. Korber was aware of any specific lots in Lincoln when any trees were cut off the lot to provide access for utilities.

**Town Engineer Korber** said off the top of his head he is aware of a specific instance in Lincoln of “off the lot tree cutting”, however, **the State of New Hampshire takes into consideration any areas contiguous to an area of disturbance is included in the disturbance whether it is a temporary or a permanent disturbance.** That would be consistent with the definition the Planning Board is trying to put forward at Town Meeting. Whether that area of disturbance is on one side of the property line or the other, it is still an area of disturbance.

**Town Engineer Korber** said that Planner Bont was correct in her earlier statement that a disturbance is a disturbance. **Town Engineer Korber** said that either way the disturbance is going to generate a potential impact that the SMO is trying to address. The Planning Board can certainly choose to define the lot as everything within the property line but understand, there could be some kind of runoff from the right of way area or an adjoining property if there is a disturbance on that adjoining property related to the development.

Member Beaudin responded that the area outside the property line should not be included as it has already gone through the stormwater process.

**Town Engineer Korber** and Planner Bont disagreed because the houses being built in the South Peak Resort development are not in accordance with the Basis of Design or the Alteration of Terrain (AoT) Permit. The Alteration of Terrain Permit (AoT) for the South Peak Resort prepared by Horizons Engineering, Inc., did not take into consideration houses of the large size that are being constructed in South Peak. The AoT and the Basis of Design for South Peak Resort was for houses with a footprint of two thousand square feet (2,000 SF) and an additional two thousand square feet (2,000 SF) of impervious surfaces for a “gravel driveways”, walkways, etc. The houses built within South Peak Resort to date have had a footprint well in excess of two thousand square feet (2,000 SF).

A discussion ensued regarding the right of way and how changing a wooded area to a driveway would result in an increase in the stormwater runoff.

**Town Engineer Korber** explained that the issue was not ownership of the lot but the Stormwater Management Ordinance (SMO) controlling the runoff and preventing erosion sedimentation coming off from those house sites. The question is not ownership but will there be an increase of runoff on areas that are contiguous to the development that are outside of the property limits of the development.

**Fire Chief/Code Enforcement Officer Beard** explained that some people are using the common areas for stockpiling material and equipment which then gets triggered into the area of disturbance.

**Developer's Engineer Jon Warzocha, P.E.** CEO of Horizons Engineering, Inc., responded that the overall disturbance has been built into the permitting for that particular development and the intent of the Stormwater Management Ordinance (SMO) is to control post construction stormwater runoff. He feels the simple definition of "on lot" is the way to go.

Chairman Spanos agreed that the language of the Stormwater Management does not specifically state "the lot and surrounding area"; it just says "lot".

**Stuart Anderson of Alba Architects, LLP**, agreed with Town Engineer Korber that a disturbance is a disturbance whether the disturbance is on the lot or off the lot, but if the Town is going to include the area of disturbance off the lot, he wanted to know exactly how that rea would be calculated.

Member Beaudin said he feels the lot is the lot and anything off lot has been calculated for stormwater runoff already and any disturbance to put in utilities would only be a temporary disturbance anyway.

**Stuart Anderson of Alba Architects, LLP** feels it would be helpful for the Planning Board to clarify how the calculation of disturbance is reached.

Chairman Spanos agreed and feels this subject deserves more discussion at a future meeting.

Member Beaudin asked if the Planning Board could clarify what "on the lot" means.

**Motion to close public comment Member Beaudin**

**Second Vice Chairman Chenard**

**All in favor**

**Motion to accept changes for the Town Warrant. Vice Chairman Chenard**

**Second. Member Beaudin**

**All in favor.**

Add Paragraph C.

- C. *Disturbance – Means filling, grading, dredging, mining, excavation, construction, removal of topsoil, removal of stumps, stockpiling of earth material, or any other activity that results in a temporary or permanent change to the preexisting ground conditions or contours, or both.*

**Motion to open public comment. Member Beaudin**

**Second. Vice Chairman Chenard**

**All in favor.**

**Motion to close public comment. Selectmen's Representative Daly**  
**Second. Vice Chairman Chenard**  
**All in favor.**

**Motion to send the definition of disturbance to the Town Warrant as written. Selectmen's Representative Daly**  
**Second. Vice Chairman Chenard**  
**All in favor.**

**A. Further Discussion re: South Peak Resort Basis of Design**

Chairman Spanos mentioned that there have been complaints from second home owners regarding their concerns about water pressure and fire protection.

**Developer Mark Bogosian** responded that there is a Letter of Credit to contribute towards building the water tank to assist the Town in whatever way possible. He adds that once the tanks are installed it will not only be beneficial to South Peak Resort but for the surrounding area as well. He is looking into adding more pumps.

**Developer's Engineer Jon Warzocha of Horizons Engineering, Inc.** added that the water tank is necessary, at some point, to allow the South Peak Resort development to continue. He added that further discussion on the interim step and the timeframe for the installation is needed before the tank becomes a necessity.

**Developer Mark Bogosian** clarified that he is prepared to put in the tank immediately but the reason his is not pursuing his own tank for South Peak Resort is that it was advantageous for the Town to join forces with him and work together to site the Water Tank on property owned by the US Forest Service in the White Mountain National Forest.

**Selectmen's Representative Daly** mentioned that there is a hearing scheduled for the end of March, beginning of April for the Town to meet with the US National Forest Service about getting a permit to put the water tank on the property owned by the US National Forest Service.

**Basis of Design Discussion**

Member Beaudin explained he brought this matter up because during the original hearings and approvals for the South Peak Resort development certain representations were made and the current Basis of Design, which was transferred to the new owner, states that the homes in South Peak Resort will be built with between 1.75 and 4 bedrooms. This means the total number of bedrooms for the entire South Peak Resort development, as stated by the Board of Selectmen, would be 2,200 bedrooms.

Member Beaudin said he does not believe that the BOS has the right [i.e., legal authority] to arrive at the total of (2,200) number of bedrooms. Member Beaudin said he feels new Owner/Developer Mark Bogosian should come into the Planning Board and change the Basis of Design to what he wants it to be.

Member Beaudin said that Mark Bogosian's reasoning would be that he will be putting in a water tank and there is going to be more water available for fire protection, and that means



there is the potential to increase in the number of bedrooms allowed. He feels if there is to be an increase in the number of bedrooms allowed then the changes should be documented.

**Developer Mark Bogosian** stated he plans to be in front of the Planning Board often as he is in “this” for the long haul. He intends to work with the Planning Board throughout the entire process as things will evolve over time and will require adjustment.

**Developer Mark Bogosian** said currently, he is in the process of planning and working out the details. He has been proactive from the start as he went directly to the Town to address the fire protection and water pressure issues. He mentions that when there are changes to be made, he will be coming in to the Planning Board to show what he is planning to do. When he gets closer to developing a Master Plan, he could update the Basis of Design.

Member Beaudin said he would like to see, in the meantime, some update to the Master Plan and Basis of Design.

Selectmen’s Representative Daly commented that most of the decisions Mark Bogosian will make regarding South Peak Resort’s future development will be market driven.

Member Beaudin said he would like to see an updated Basis of Design, which he feels is a simple task.

**Developer’s Engineer Jon Warzocha of Horizons Engineering, Inc.**, agreed that the currently documents are old and will need to be updated. His client and he plan to come before the Planning Board and present some of their ideas that fit within the existing approvals. He feels there are two tracks: one track includes the small projects that fit within the existing approvals and the second track includes the big projects. The existing portfolio with the Basis of Design and the rest of the documents will work for the small projects and they will definitely require updating. Once they figure out how the new Master Plan fits in with the old Basis of Design, they can tweak what needs to be modified and then create a good map for what is needed moving forward.

Member Beaudin asked the Planning Board if they are going to enforce the existing Basis of Design or go with the BOS aggregate of 2200 bedrooms.

Chairman Spanos asked what size homes were being built currently.

**Developer Mark Bogosian** responded that he is trying to build smaller homes but it is hard to say because there will be condominiums and smaller “things” in the mix. Much larger homes were being built previously. In the next phase they will be watching the size of the homes.

**Developer Mark Bogosian** said that previously, the homes being built had a footprint of five thousand (5,000) square feet plus and now the homes being built are closer to three thousand (3,000) square feet plus.

**Developer Mark Bogosian** said that at the moment the association is limiting the number of bedrooms to four (4).

Planner Bont added that she recently had a situation where the homeowners built a four (4) bedroom home and then converted the space that was labeled “gym” on the building plans into a bunk room or bedroom for a total of five (5) bedrooms. She wanted to know if that

type of unpermitted conversion of space into a bedroom is allowed by the South Peak Resort Community Association.

**Developer Mark Bogosian** responded that the South Peak Resort Community Association is now keeping an eye out for how many actual bedrooms are present.

Planner Bont explained that she is now sending a copy of the Land Use Compliance Certificate to Stuart and David. It will be the responsibility of the home owners' association (South Peak Resort Community Association) to police their members.

Member Beaudin added that there is separation between the legal responsibilities of the Town and those of the Homeowners Association. The Town should not be responsible for enforcing the rules of the homeowner's association.

**Developer Mark Bogosian** said he plans to only allow a maximum of four (4) bedrooms per single family home until a new plan is created.

**Developer Mark Bogosian** plans to come in on Feb. 9, 2020 for a conceptual meeting.

#### **IV. PUBLIC PARTICIPATION AND OTHER BUSINESS:**

The Planning Board reviews the agenda for the next meeting on Feb. 9, 2020 and discusses whether or not they want to have the State visit to discuss Notice of Intent to Cut, Timber Tax, etc.

**Motion to adjourn. Member Beaudin**  
**Second. Vice Chairman Chenard**  
**All in favor.**

Respectfully submitted,

*Judy Sherriff*  
Recording Secretary

Date Approved: February 23, 2022

  
Chairman Spanos